

One of the Finland's Largest Minings Coming to Forest Sámi Reindeer Management Area*

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Sokli mining project

Since 2007, the Norwegian mining company YARA has been preparing to open a phosphate mine in the municipality of Savukoski, in Finland. The name of the area is Sokli. If the project materializes, the mine would be one of the largest in Finland in terms of both area and estimated costs. The

estimated costs of the project are about one billion euros.

Sokli is located in the area Kemin-Sompio reindeer herding district. The name 'Kemin-Sompio' comes from the names of the two Forest Sámi Lapland villages located in the area, Keminkylä and Sompio.

The Kemin-Sompio reindeer herding district is the largest reindeer herding district in Finland in terms of both area and number of reindeer (12,000 animals). In some years, the Kemin-Sompio district has produced 10% of the reindeer meat in the entire Finnish reindeer husbandry area. About 200 people earn a living from reindeer



Lapland villages around the middle of the 18th century.

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husbandry. Some of them are full-time, some part-time reindeer herders.

The planned mine would be located in the middle of the pasture area of the Kemin-Sompio district. The size of the mining district is about 6,000 hectares. The ore would be transported by truck to the city of Kemijärvi, where it would be loaded on a train. According to the plan, heavy traffic would be around nearly 300 cars a day, which would mean a vehicle every five minutes, day and night.

The mine's energy production would use a heating plant that would need up to 200,000 solid cubic meters of wood per year. According to the application, this tree would be taken at a distance of 100 km from Sokli, i.e. in practice from the area of the Kemin-Sompio district.

If the project materializes, the district will lose much of its pasture area. In addition, the herding area of the district would be practically divided into two parts, which would prevent the reindeer from moving from one grazing area to another. Almost all the reindeer in the area graze on natural pastures throughout the year. Adding 200,000 solid cubic meters of annual fellings to the current, already quite significant fellings, would cause significant damage to winter feeding of reindeer.

The legal-historical perspective

In modern times there have been no lawsuits in Finland in which the real estate status of the areas that belonged to the Lapland villages has been clarified in more detail. The legal status of reindeer husbandry has also not been clarified in more detail in the case law. Unlike in Sweden and Norway the government has also been reluctant to clarify this issue.

However, the legal-historical status of the area was sidelined in the so-called taxed mountain case. This was a decision taken by the Swedish Supreme Court (SC) in 1981, which dealt in detail with the Sámi reindeer herder's legal status. Although the subject of the lawsuit was the territory which now belongs to Sweden, to the court was submitted material which was made in the district courts of Sompio and Keminkylä Lappvillages, among others. The decision of the SC states that it can be concluded from this material that there has been a tendency in this area in particular that the Sámi have been considered to have a similar right to the areas they use as the peasants (Nytt Juridisk Arkiv 1981: 1 pp. 184 and 196).

According to the Swedish SC, by the middle of the 18th century, the Sámi land status was the strongest in the area which in present-day is located in Northern Finland. According to the court, this right was comparable to the

peasants' land right, ie. the land ownership right of that time.

Significant disadvantage to reindeer husbandry

Section 2.2 of the Finnish Reindeer Husbandry Act provides for an area specifically intended for reindeer husbandry. According to the law, land in this area may not be used in such a way as to cause "significant harm" to reindeer husbandry. Sokli is located in this area.

The matter has been appealed to the Supreme Administrative Court in connection with both planning and mining permit. In 2017, however, the Supreme Administrative Court ruled that the mine would not cause significant harm to reindeer husbandry. However, such an interpretation of the law can rightly be called into question. According to the preliminary work of the law, even a single forestry measure, such as clear-cutting, can exceed the threshold of significant harm. It is clear that the current project exceeds several times that harm, what forestry measure can cause to the reindeer husbandry.

However, the matter has been appealed to the Supreme Administrative Court also in connection with the environmental permit in 2020. Also, in this context, it has been pointed out that the project is in conflict with section 2.2 of the Reindeer Husbandry Act. The case

is pending before the Supreme Administrative Court.

Convention on Civil and Political Rights

Almost all the reindeer owners of the Kemin-Sompio district are descendants of the forest Sámi who have lived in the area as the first population group. The vast majority of the reindeer owners of the district consider themselves Sámi and in their family reindeer husbandry has been practiced in the area for hundreds of years.

Finland has ratified the Convention on Civil and Political Rights. According to article 27 of the Convention, persons belonging to minorities may not be prohibited from enjoying their culture. It is well established in Finland that reindeer husbandry is part of Sámi culture.

Kemin-Sompio district's reindeer owners have also pointed out in connection with the processing of the environmental permit that the project is in conflict with Article 27. In its defense, YARA did not comment at all on this point. This matter is also pending before the Supreme Administrative Court.

Conclusions

It appears that in the present case little account has been taken of the legal-

historical past of the region. The real estate status of the area differs from what it is elsewhere in Finland. It has also remained unclear to where the Sámi's strong real estate status has disappeared.

One starting point could also be that the legal status of Sámi reindeer herders cannot differ much from what it is in Sweden. In Sweden, reindeer herding is understood strongly protected land use right with a civil law basis. As this starting point is primarily based on the joint legislation of Finland and Sweden, this should also be the starting point in Finland. Although this matter is not

provided for in any particular law, this should be the premise in the case law as well.

On the other hand, the legal protection of reindeer husbandry is also provided for in the current legislation, i.e. section 2.2 of the Reindeer Husbandry Act. However, it appears that the authorities have difficulty in applying this provision, in accordance with the normal interpretation of the law.

